IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

SUIT NO. 829 OF 1989

Inderjit Kapur. ... Plaintiff

V/s.

Mahanagar Telephone Nigam Limited. ... Defendants.

Mr. Shailesh Shah with Ms. Mamta Sudh i/b. S.N. Shah
for the Plaintiff.

Mrs. S.I. Shah for the Defendant.

.....

CORAM : DR. D.Y. CHANDRACHUD,J.

21ST SEPTEMBER, 2006.

P.C. :

1. This Suit has been instituted in order to challenge the correctness of 9 bills issued by Mahanagar Telephone Nigam Ltd. - the Defendant, the bills being dated between 1st November 1987 and 1st March 1989, to the Plaintiff who is a telephone subscriber.

2. The dispute raised in the suit clearly falls within the purview of Section 7-B of the Indian Telegraphs Act, 1885 and can therefore, be determined by arbitration. Counsel appearing for the Defendant has drawn the attention of the Court to orders passed by the Division Bench on 20th January 2000 in Writ Petitions 134 of 1990 and 145 of 1990 wherein having regard to the judgment of the Supreme Court in Telecom District Manager, Goa v. V.S. Dempo, a statement was made on behalf of MTNL that the dispute be referred to arbitration. A similar

statement has been made on behalf of the Defendant in this case to the effect that a reference would be made to arbitration under Section 7-B of the Indian Telegraphs Act, 1885. In that view of the matter, this suit can be disposed of in terms of the statement which has been made on behalf of the Defendant.

3. During the pendency of this Suit, by an ad-interim order passed on 20th March 1989 in terms of minutes, the Plaintiff had agreed to deposit an amount of Rs.36,044 with the Defendant subject to which the Defendant was directed not to disconnect the two telephones forming the subject matter of the suit. On 8th February 1991, the Notice of Motion was made absolute in terms of prayer clause (a) and it was recorded that the Plaintiff had deposited the amount as directed in the order dated 20th March 1989.

4. Under Section 7-B, the Arbitrator has to be appointed by the Central Government, Counsel appearing on behalf of the Defendant stated that in compliance with the direction issued by this Court in the aforesaid terms, the Defendant will move the Central Government for the appointment of an Arbitrator under Section 7-B of the Indian Telegraphs Act, 1885 within a period of 6 weeks from today. The Arbitrator will endeavour to expedite the disposal of the dispute upon his appointment and preferably complete the proceeding within a period of 6

months of his entering upon reference. The amount which has been deposited by the Plaintiff with the Defendant shall abide by the final result of the Arbitration Proceeding. The order of injunction passed by this Court on 28th March 1989 shall continue to remain in force pending the disposal of the Arbitration proceeding and thereafter for a period of 90 days after the receipt of the award by the Plaintiff.

5. The Suit is accordingly disposed of by consent in the aforesaid terms since no other issue is pressed at this stage on either side.